

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
(SOUTH)

SUPERIOR COURT

OCTOBER TERM, 2002

State of New Hampshire

v.

Hitchiner Manufacturing Company, Inc.

Docket No.

PETITION FOR PERMANENT INJUNCTION AND CIVIL PENALTIES

NOW COMES the State of New Hampshire, by and through counsel, the Office of the Attorney General (hereinafter “State”), and complains against Hitchiner Manufacturing Company, Inc. (hereinafter “Hitchiner”) as follows:

A. INTRODUCTION

1. This is an action for permanent injunction and civil penalties under the authority of RSA 147-A:14, II and RSA 147-A:17, I against Hitchiner Manufacturing Company, Inc. for violations of New Hampshire's hazardous waste management laws, rules and permits. The State alleges, among other things, that Hitchiner treated, stored and disposed of hazardous waste without a permit, that it improperly transported hazardous waste and that it failed to properly manage hazardous waste generated at three facilities in New Hampshire.

2. This Court has jurisdiction over this action pursuant to RSA 147-A:14, II and RSA 147-A:17, I. Venue is proper in the southern district of Hillsborough County because Hitchiner’s corporate headquarters are located in Milford, New Hampshire.

B. PARTIES

3. The petitioner, New Hampshire Department of Environmental Services, through its Division of Waste Management (hereinafter "Environmental Services"), with principal offices at 6 Hazen Drive, Concord, New Hampshire 03301, is the State agency responsible for the administration and enforcement of the New Hampshire Hazardous Waste Management Act, RSA ch. 147-A and rules adopted thereunder at N.H. CODE ADMIN. RULES Chapter Env-Wm 100 – 1100 (hereinafter "Env-Wm").

4. The defendant, Hitchiner, is a corporation organized and existing under the laws of the State of New Hampshire. Hitchiner's principal place of business and corporate headquarters are located at 117 Old Wilton Road, Milford, New Hampshire. Hitchiner owns and operates four facilities in New Hampshire, three of which have been the subject of previous actions by the State for violations of New Hampshire's hazardous waste laws and rules and are the subject of this enforcement action.

C. FACTUAL ALLEGATIONS (MILFORD FACILITY)

5. Hitchiner owns and operates a facility at 117 Old Wilton Road, Milford, New Hampshire (the "Milford facility"). The Milford facility manufactures ferrous alloy products, including golf club heads, automotive parts and tool parts. During the manufacturing process, acids are used to remove oxidized layers from the metal surfaces of the products. This removal process is called "pickling."

6. Hitchiner notified the U.S. Environmental Protection Agency ("EPA") of its activities on August 5, 1980 and was assigned EPA Hazardous Waste Generator Identification Number NHD-00I078682 for the Milford facility.

7. As a hazardous waste generator, Hitchiner is required to maintain its Milford facility in compliance with RSA ch. 147-A and rules adopted thereunder, N.H. CODE ADMIN. Rules Chapter Env-Wm 100 et seq. (hereinafter "Env-Wm").

8. Hitchiner also owns and operates an on-site wastewater treatment unit ("WWTU"). The WWTU is a hazardous waste treatment facility within the definition of RSA 147-A:2, IV.

9. RSA 147-A:4, I requires any person who wishes to construct or operate a hazardous waste facility to treat or dispose of hazardous waste to first obtain a permit from Environmental Services.

10. On or about 1983, 1991 and 1999, Hitchiner submitted to Environmental Services applications for treatment of hazardous waste in the WWTU at the Milford facility and, within the 1983 and 1991 applications, claimed that the only hazardous wastes to be treated were corrosive "D002" wastes from the finishing operations at the Milford facility, despite receiving notice from Environmental Services in 1984 that the pickle liquors were listed hazardous wastes. In the 1999 application, Hitchiner did not identify K062 hazardous waste as being treated in the WWTU and did not disclose that offsite waste was being treated in the WWTU.

11. On March 4, 1992, Environmental Services issued permit-by-rule ("PBR") No. DES/PBR-92- 017 for elementary neutralization of corrosive hazardous waste generated at the Milford facility, based upon Hitchiner's representation that

only corrosive D002 waste would be treated in the WWTU. The PBR expired on March 4, 1997 under the terms of the permit.

12. The permit-by-rule that expired on March 4, 1997 allowed Hitchiner to neutralize corrosive "D002" wastes by adding acid to the WWTU.

13. On March 10, 11 and 19, 1999, Environmental Services conducted an inspection of the Milford facility to determine, in part, Hitchiner's hazardous waste compliance status ("the March 1999 inspection").

14. At the time of the March 1999 inspection, Environmental Services documented that Hitchiner was operating a 300 series and a 400 series pickling operation at the Milford facility and that the spent pickle liquors from both pickling operations were being discharged into Hitchiner's on-site Waste Water Treatment Unit ("WWTU").

15. Hitchiner is an industry with the SIC Code of 332 and spent pickle liquors generated by steel finishing operations within the iron and steel industry with an SIC Code of 331 or 332 are listed hazardous wastes with EPA hazardous waste number K062. See Env-Wm 402.07.

16. The spent pickle liquors generated at the Milford facility are hazardous wastes as defined under RSA 147-A:2 and are K062 listed hazardous waste under Env-Wm 402.07.

17. The basis for the K062 hazardous waste listing for the spent pickle liquors is the presence of hexavalent chromium and lead, both of which are toxic hazardous wastes. See 40 CFR Part 261 Appendix VII.

18. On August 7, 1984, Environmental Services had issued a Notice of Violation/Order of Abatement No. 84-25 to Hitchiner, in which Environmental Services indicated that the spent pickle liquor was listed hazardous waste K062 and that the wastewater from the WWTU was a regulated hazardous waste mixture under section 1905.03(b)(6) of the then-applicable hazardous waste rules.

19. The regulatory treatment of the spent pickle liquors has not changed between 1984 and present, in that the K062 hazardous waste listing applies to this waste unless it is delisted by the EPA under 40 CFR Part 260 and by Environmental Services under Env-Wm 406.02.

20. During the March 1999 inspection, Hitchiner representatives claimed that the K062 pickle liquors were discharged into the WWTU because they were being reused as a substitute for virgin acid treatment chemical and, therefore, were not hazardous waste subject to the state's hazardous waste rules.

21. The state's hazardous waste rules provide for an exemption from hazardous waste regulation if a material is being reused or recycled, but not if the material is inherently waste-like or is used in a manner constituting disposal. Env-Wm 803.03(b).

22. The K062 spent pickle liquors are inherently waste-like in that data submitted by Hitchiner to Environmental Services as a result of a May 13, 1999 information request show that the K062 pickle liquors contain chromium levels nearly one thousand (1000) times higher than the hazardous waste standard and arsenic

levels four (4) times higher than the hazardous waste standard, but are only half as effective as the virgin acids in their neutralizing capacity.

23. Hitchiner's discharge of the K062 spent pickle liquors into the WWTU constitutes treatment and disposal of hazardous waste without a permit, in violation of RSA 147-A and implementing rules.

24. Information submitted by Hitchiner to Environmental Services as a result of the March 1999 inspection shows that the K062 pickle liquors were treated in the WWTU and discharged into the Town of Milford wastewater treatment system from the time that Environmental Services issued the PBR for treatment of the corrosive ("D002") waste and continued after expiration of the PBR in March 1997.

25. The PBR did not authorize Hitchiner to treat K062 hazardous waste in the WWTU.

26. Hitchiner had not applied for or received a permit to treat and dispose of the K062 spent pickle liquors in the WWTU, as required under RSA 147-A and the hazardous waste rules, before treating and disposing of the waste.

27. Hitchiner had not manifested the K062 spent pickle liquors from the Milford facility for transportation and disposal at an authorized facility, as required under RSA 147-A and the hazardous waste rules.

28. Hitchiner discharges all effluent wastewater from the WWTU into the Town of Milford publicly owned wastewater treatment facility ("POTW").

29. Hitchiner had not applied for or received a permit to dispose of the K062 spent pickle liquors into the Town of Milford POTW, as required under RSA 147-A and the hazardous waste rules.

30. Under the hazardous waste rules at Env-Wm 353.03, the Town of Milford is required to qualify for a permit by rule before it may accept the K062 hazardous waste. The permit by rule would include notification to the State and obtaining an EPA hazardous waste number.

31. Hitchiner never notified the Town or any agency of the State that it was discharging a listed K062 hazardous waste into the Town of Milford POTW and, therefore, Milford never had an opportunity to refuse to accept Hitchiner's hazardous waste discharge and the liabilities associated with it, or to perform the steps necessary to qualify for the permit by rule.

32. The listed K062 hazardous waste discharged by Hitchiner into the Town of Milford POTW remained a listed hazardous waste because it was not delisted and, therefore, the discharge constituted disposal of hazardous waste without a permit.

33. On July 13, 1999, Hitchiner submitted a late application for a limited permit to operate the WWTU and on July 23, 1999, Environmental Services issued Limited Permit No. DES-HW-LP- 99-010, which included a specific condition that Hitchiner may only treat in the WWTU hazardous wastewater (sodium hydroxide rinse and pickling rinse) generated at the Milford facility. The limited permit specifically prohibited Hitchiner from discharging wastewater classified as hazardous waste to the Milford POTW.

34. On July 26, 1999, DES issued Administrative Order No. WMD 99-78 ("July 1999 AO") which required, among other things, that Hitchiner immediately cease treating and disposing of the K062 spent pickle liquors in the WWTU. The July 1999 AO is attached as Exhibit A and incorporated by reference herein.

35. The WWTU filter system at the Milford facility consists of a sand filter and a cartridge system.

36. Env-Wm 404.01(a) provides that any waste or material mixed with any listed hazardous waste is regulated as a hazardous waste.

37. During the time period that Hitchiner was treating and disposing of the K062 pickle liquors in the WWTU, the sand filter and cartridges were regulated as hazardous waste mixtures.

38. On or about October 7, 1997, Hitchiner disposed of 2,640 pounds of sand regulated as hazardous waste in a solid waste dumpster at the Milford facility.

39. During the relevant time period, Hitchiner disposed of four hundred and sixteen (416) filter cartridges per year, since on or about 1990, in a solid waste dumpster at the Milford facility.

40. The filter sand and cartridges were regulated as hazardous waste and improperly disposed of as solid waste and sent to facilities that are not authorized to receive or dispose of hazardous waste.

41. The July 1999 AO required that Hitchiner immediately cease disposing of the filter sand and cartridges filters as solid waste.

42. On August 6, 1999, Hitchiner notified Environmental Services that it had complied with all aspects of the July 1999 AO regarding the listed K062 hazardous waste and the hazardous waste mixtures.

D. FACTUAL ALLEGATIONS (LITTLETON FACILITIES)

43. Hitchiner operates facilities similar to the Milford facility on Beacon Street and Redington Street in the Town of Littleton. The Beacon and Redington Street facilities employ a production process called "passivation," which involves the use of acid to clean the metal surface of iron particles and other substances that may become embedded during manufacturing.

44. In 1984, Hitchiner notified EPA that it generated hazardous waste at the Beacon Street facility and that facility was assigned EPA Identification Number NHD 980917660.

45. In 1993, Hitchiner notified EPA that it generated hazardous waste at the Redington Street facility and that facility was assigned EPA Identification Number NHD 986485449.

46. As a hazardous waste generator, Hitchiner is required to maintain its Littleton facilities in compliance with RSA ch. 147-A and rules adopted thereunder.

47. Hitchiner has operated a "300" series passivation process at the Beacon Street facility since 1985 and a "400" series passivation process at this facility since on or about January 1998, the date on which it moved the 400 series process from the Milford facility. Both series generate passivation solutions and passivation rinsewaters that are contaminated with chromium.

48. Hitchiner has operated a 300 series passivation process at the Redington Street facility since 1993.

49. The 300 series passivation solution is a hazardous waste as defined under RSA 147-A:2 in that it is classified as a corrosive "D002" hazardous waste because of its low pH.

50. The 400 series passivation solution is a hazardous waste as defined under RSA 147-A:2 in that it is classified as both a corrosive "D002" and a toxic "D007" hazardous waste because of its low pH and because of its high chromium level.

51. Beginning on or about 1994, Hitchiner drummed the 300 series solution from the Redington Street facility transported it to Milford and disposed of it in the Milford facility WWTU.

52. Beginning on or about 1985, Hitchiner drummed the 300 series solution from the Beacon Street facility transported it to the Milford facility and disposed of the solution in the Milford facility WWTU.

53. During the March 1999 inspection, Hitchiner claimed that the 300 series solution was exempt from hazardous waste regulation because it was being reused or recycled as a neutralizing agent in the Milford WWTU.

54. Data provided by Hitchiner to Environmental Services on April 19 and May 28, 1999 show that the 300 series passivation solution is an extremely weak acid with limited benefit as a neutralizing agent in the Milford facility WWTU.

55. The 300 series passivation solution is inherently waste-like because it is not an effective substitute for virgin acid and would not meet relevant commercial specifications for virgin acid due to its low normality.

56. Beginning in January 1998, Hitchiner drummed the 400 series passivation solution generated by the Beacon Street facility and transported the drums to the Milford facility for disposal in the on-site WWTU.

57. Information provided by Hitchiner to DES shows that Hitchiner transported the 300 and 400 series solutions in its own vehicles from the Littleton facilities to the Milford facility.

58. New Hampshire hazardous waste statutes and rules require any person transporting hazardous waste within the state to register with Environmental Services and to comply with transporter requirements.

59. Hitchiner has never notified Environmental Services or submitted a hazardous waste transporter registration for transport of the passivation solutions from the Littleton facilities to the Milford facility, nor has it complied with hazardous waste transporter requirements.

60. During the March 1999 inspection, Hitchiner claimed that the 400 series passivation solution was exempt from hazardous waste regulation because it was being reused or recycled in the Milford facility WWTU.

61. Data provided by Hitchiner to Environmental Services on April 19 and May 28, 1999 show that the 400 series passivation solution is a very weak acid and also has toxic levels of chromium that are not present in the virgin acid.

62. The 400 series passivation solution is inherently waste-like because it would not meet relevant commercial specifications for virgin acid due to its low normality and high levels of chromium.

63. Between approximately January and August 1998, Hitchiner disposed of the 400 series rinsewater from the Beacon Street facility into the Town of Littleton POTW, in violation of federal and state water discharge permits.

64. On or about mid-1998, EPA informed Hitchiner that the Littleton POTW was not permitted to receive the 400 series passivation rinsewater due to the high chromium levels in the rinsewater.

65. On or about August 1998, Hitchiner began drumming and shipping offsite the 400 series passivation rinsewater from the Beacon Street facility for disposal at an authorized hazardous waste treatment, storage and disposal facility.

66. Data received by Environmental Services from Hitchiner as a result of the March 1999 inspection show that the 400 series passivation solution that was being transported to the Milford facility WWTU contains much higher levels of chromium than the 400 series rinsewater that Hitchiner was sending to an authorized hazardous waste facility.

67. Despite notification by EPA that Hitchiner could not dispose of the 400 series rinsewaters in the Littleton POTW and despite the presence of higher concentrations of chromium and hexavalent chromium than the 400 series rinsewaters that Hitchiner was required by EPA to manage as a hazardous waste, Hitchiner continued to drum, transport to and dispose into the Milford facility WWTU the 400 series passivation solutions from the Beacon Street facility.

68. Hitchiner's activities with regard to the 300 series and 400 series passivation solutions constituted storage, treatment and disposal of hazardous waste.

69. Hitchiner had not applied for or received a permit to store, treat or dispose of the 300 series passivation solution generated by the Littleton facilities in the Milford facility WWTU.

70. Hitchiner never applied for or received a permit to store, treat or dispose of the 400 series passivation solutions generated at the Littleton facilities into the Milford facility WWTU.

71. The PBR issued by Environmental Services to Hitchiner's Milford facility and which expired in 1997 allowed only for treatment of corrosive "D002" hazardous waste generated at the Milford facility and did not authorize storage, treatment or disposal of corrosive or toxic hazardous waste generated at the Littleton facilities.

72. Information provided by Hitchiner to Environmental Services during the March 1999 inspection and in April 19, 1999 correspondence shows that Hitchiner ceased treating specifically for the hexavalent chromium in the Milford WWTU as of June 28, 1996 and that Hitchiner ceased testing for total chrome and hexavalent chrome as of June 28, 1996, despite continuing to discharge the effluent into the Town of Milford POTW.

73. In the July 1999 AO, Environmental Services ordered Hitchiner to immediately cease receiving and disposing of the 300 and 400 series spent passivation solutions from the Littleton facilities.

74. On August 6, 1999, Hitchiner notified Environmental Services that the Milford facility had ceased receiving and disposing of the passivation solutions.

E. FACTUAL ALLEGATIONS (MILFORD AND LITTLETON FACILITIES)

75. During the March 1999 inspection of the Milford facility, Environmental Services documented numerous violations of the regulatory requirements relating to management of hazardous wastes, including serious violations relating to treatment, storage and disposal of hazardous waste. The documented violations are set forth in Exhibit A.

76. On June 2, 1999, Environmental Services conducted an inspection of the Beacon Street and Redington Street, Littleton facilities (hereinafter "June 1999 inspections") and documented numerous violations of the regulatory requirements relating to management of hazardous wastes, including serious violations relating to identification and storage of hazardous waste.

77. On October 13, 1999, Environmental Services issued Administrative Order No. WMD-99-145 to Hitchiner relating to the violations at the Littleton facilities and requiring compliance with the applicable rules. The October 13, 1999 Administrative Order is attached hereto as Exhibit B and incorporated by reference herein.

GENERAL ALLEGATIONS

78. The State realleges paragraphs 1 through 77 herein.

79. Since 1980, the State and EPA have conducted numerous compliance inspections of Hitchiner's facilities and have initiated administrative and civil enforcement actions against Hitchiner.

80. Well before the time period relevant to this action, DES had notified Hitchiner that the pickle liquors generated at the Milford facility are listed hazardous wastes.

81. Well before the time period relevant to this action, DES had notified Hitchiner of the recycling exemption criteria for the passivation solutions generated at the Littleton facilities and that Hitchiner must document that the regulatory criteria are met.

82. The State and EPA have repeatedly cited Hitchiner for violation of the hazardous waste management requirements at its Milford and Beacon Street, Littleton facilities.

83. Hitchiner has been the subject of civil actions brought by the State to enjoin discharge of hazardous waste to the environment and by EPA for violation of land disposal restrictions and water discharge permit limitations.

84. Hitchiner has realized a substantial economic benefit in its operating expenses by failing to adhere to state law and rules governing the management of hazardous waste.

HAZARDOUS WASTE ALLEGATIONS

FIRST REQUEST FOR RELIEF

TREATMENT, STORAGE AND DISPOSAL OF HAZARDOUS WASTE WITHOUT A PERMIT (PICKLE LIQUORS)

85. The State realleges and incorporates by reference paragraphs 1 through 84 herein.

86. RSA 147-A:4, I requires any person operating a hazardous waste facility or disposing of hazardous waste on or after July 1, 1980 to obtain a permit from Environmental Services.

87. RSA 147-A:4, II-c requires applications for permits to include such information as DES requires by rules adopted under RSA 147-A:3.

88. Hitchiner is a person and owns and operates a hazardous waste facility as those terms are defined in RSA 147-A.

89. Hitchiner's discharge of the listed K062 pickle liquors generated at the Milford facility into the on-site WWTU constituted treatment of hazardous waste as those terms are defined by RSA 147-A:2 and the hazardous waste rules.

90. Hitchiner's discharge of the listed K062 pickle liquors from the on-site WWTU into the Town of Milford wastewater treatment system constituted disposal of hazardous waste as those terms are defined by RSA 147-A:2 and the hazardous waste rules.

91. Hitchiner failure to apply for or to obtain a permit for treatment or disposal of the listed K062 hazardous waste constitutes a continuing violation of RSA 147-A:4, I.

92. Hitchiner failure to include information relating to the listed K062 hazardous waste in its application for a permit-by-rule constitutes a violation of RSA 147-A:4, II-c.

93. RSA 147-A:14 authorizes this Court to issue injunctions to enforce the provisions of RSA 147-A and Environmental Services' rules, permits and orders. RSA 147-A:17 provides that any person shall be subject to a civil forfeiture of up to

\$50,000 for each day of a continuing violation. Pursuant to these provisions, Hitchiner is subject to injunctive relief and assessment of civil penalties not to exceed \$50,000 for each day of each violation alleged herein.

SECOND REQUEST FOR RELIEF

UNLAWFUL DISPOSAL OF HAZARDOUS WASTE MIXTURES

94. The State realleges and incorporates by reference paragraphs 1 through 93 herein.

95. Hitchiner's discharge of listed K062 hazardous waste into the WWTU at the Milford facility caused the sand and cartridge filter system in the WWTU to become a hazardous waste mixture under the hazardous waste rules.

96. Disposal of hazardous waste mixtures require a permit under RSA 147-A:4, I.

97. Hitchiner failed to apply for or obtain a hazardous waste permit for disposal of the sand and cartridge filters into a solid waste dumpster at the Milford facility.

98. Hitchiner's disposal of the sand and cartridge filters in a solid waste dumpster constitutes disposal of hazardous waste without a permit, in violation of RSA 147-A:4, I.

99. Pursuant to RSA 147-A:14 and RSA 147-A:17, Hitchiner is subject to injunctive relief and assessment of civil penalties not to exceed \$50,000 for each day of each violation of RSA 147-A and rules, permits and orders issued thereunder.

THIRD REQUEST FOR RELIEF

STORAGE, TREATMENT AND DISPOSAL OF HAZARDOUS WASTE
WITHOUT A PERMIT (PASSIVATION SOLUTIONS)

100. The State realleges and incorporates by reference paragraphs 1 through 99 herein.

101. Hitchiner's unpermitted storage and receipt of passivation solutions from the Littleton facilities at the Milford facility constitutes storage of hazardous waste without a permit, in violation of RSA 147-A, I and implementing rules.

102. Hitchiner's discharge of spent passivation solutions from the Beacon Street and Redington Street, Littleton facilities into the WWTU at the Milford facility constitutes treatment, storage and disposal of hazardous waste without a permit, in violation of RSA 147-A, I and implementing rules.

103. Hitchiner operated a hazardous waste facility and treated, stored and disposed of hazardous waste without a permit, in violation of RSA 147-A:4, I.

104. Hitchiner failed to include information required by DES rules in its application for a permit-by-rule for the Milford facility WWTU in that it failed to disclose that hazardous wastes other than on-site generated corrosive wastes were to be treated in the WWTU, in violation of RSA 147-A:4, II-c.

105. Pursuant to RSA 147-A:14 and RSA 147-A:17, Hitchiner is subject to injunctive relief and assessment of civil penalties not to exceed \$50,000 for each day of each violation of RSA 147-A and rules, permits and orders issued thereunder.

FOURTH REQUEST FOR RELIEF

OPERATING A HAZARDOUS WASTE FACILITY WITHOUT A PERMIT

106. The State realleges and incorporates by reference paragraphs 1 through 105 herein.

107. RSA 147-A:4, I requires any person operating a hazardous waste facility to obtain a permit from the State.

108. Hitchiner's PBR to treat corrosive hazardous waste in its Milford facility WWTU expired in March 1997 and Hitchiner did not receive a limited permit to operate until July 23, 1999.

109. Hitchiner operated a hazardous waste facility without a permit between March 1997 and July 1999, in violation of RSA 147-A:4, I.

110. Pursuant to RSA 147-A:14 and RSA 147-A:17, Hitchiner is subject to injunctive relief and assessment of civil penalties not to exceed \$50,000 for each day of each violation of RSA 147-A and rules, permits and orders issued thereunder.

FIFTH REQUEST FOR RELIEF

UNLAWFUL TRANSPORTATION OF HAZARDOUS WASTE

111. The State realleges and incorporates by reference paragraphs 1 through 110 herein.

112. RSA 147-A:6 requires any transporter of hazardous waste to annually register with the State before engaging in transportation of hazardous waste.

113. On or about 1998 and 1999, Hitchiner transported passivation solutions classified as hazardous waste between its Littleton and Milford facilities.

114. Hitchiner did not register or otherwise notify the State that it was transporting hazardous waste from Littleton to Milford, in violation of RSA 147-A:6.

115. Pursuant to RSA 147-A:14 and RSA 147-A:17, Hitchiner is subject to injunctive relief and assessment of civil penalties not to exceed \$50,000 for each day of each violation of RSA 147-A and rules, permits and orders issued thereunder.

SIXTH REQUEST FOR RELIEF

VIOLATION OF HAZARDOUS WASTE MANAGEMENT RULES

116. The State realleges and incorporates by reference paragraphs 1 through 115 herein.

117. RSA 147-A:3 authorizes Environmental Services to adopt rules relative to identifying and managing hazardous wastes and permitting hazardous waste facilities.

118. RSA 147-A:14 authorizes the courts to issue temporary and/or permanent injunctions to enforce the provisions of RSA 147-A and rules adopted by Environmental Services.

119. Environmental Services has lawfully adopted hazardous waste management rules pursuant to RSA 147-A:3.

120. Hitchiner has violated the hazardous waste rules with regard to hazardous waste determination, storage, labeling, inspection and other requirements at the three facilities located in Milford and Littleton, as set forth in Exhibits A and B.

121. Pursuant to RSA 147-A:14 and RSA 147-A:17, Hitchiner is subject to injunctive relief requiring that it bring its facilities into compliance with the hazardous waste rules and that it maintain its facilities in compliance with those rules, and is

subject to assessment of civil penalties not to exceed \$50,000 for each day of each violation.

RELIEF SOUGHT

WHEREFORE, Petitioner, the State of New Hampshire, respectfully requests that the Court grant the following relief:

- A. Issue a permanent injunction enjoining Hitchiner from treating, storing or disposing of pickle liquors, passivation solutions, passivation rinsewaters or any other hazardous wastes generated at any of its New Hampshire facilities, except as permitted by Environmental Services;
- B. Issue a permanent injunction enjoining Hitchiner from transporting hazardous waste without first registering with DES;
- C. Issue a permanent injunction requiring Hitchiner to bring its facilities into compliance with RSA 147-A, the hazardous waste rules and any and all permits issued under RSA 147-A and to maintain its facilities in compliance therewith;
- D. Assess and order Hitchiner to pay a civil penalty not to exceed \$50,000 per day for each violation alleged herein as provided under RSA 147-A:17; and

E. Grant such other and further relief deemed just and appropriate.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

PHILIP T. MCLAUGHLIN
ATTORNEY GENERAL

Dated: October _____, 2002

By: _____

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